

Serial No. 10/679,977

PATENT
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metal is quite distinct from and acts different from a metal oxide. A metal forms positive ions when its compounds are in solution. A metal oxide forms hydroxides rather than acids with water. This is a very fundamental difference. As such, it is impossible for a recitation of a metal layer element to encompass a metal oxide film layer element. Ohnishi et al teaches only that it is known to use metal oxide heater film layers. A metal oxide heater layer element is clearly **not** a metal heater layer element. They are chemically and electrically different. The examiner asserts that Applicant has made no showing that a metal heater layer is not inclusive of a metal oxide film heater. That is true. There is no need to do so. Such a position would be against all teachings of general chemistry, and therefore Applicant has not made such a showing. The examiner has made no showing in support of his assertion that "metal heater layer" encompasses metal oxide heater films. The examiner is respectfully requested to reconsider his position. Ohnishi et al cannot anticipate Applicant's independent claim 12. For this reason the rejection is improper and should be withdrawn. Claim 12 is clearly allowable over the cited prior art. As claims 13-14 and 18-19 depend from claim 12 these claims are also clearly allowable and such action is earnestly solicited.

Claim Rejections under 35 U.S.C. § 103

Claims 2, 4-9, and 16-17 stand rejected as unpatentable over Ohnishi et al in view of Taniguchi et al. and further in view of Shin et al. Neither one of these references disclose metal heater layers as claimed in Applicants' independent claim 12. Since these claims depend from claim 12 and claim 12 requires a metal heater layer, this combination of references cannot render Applicants' claims 2, 4-9, 16-17 obvious. Therefore this rejection should also be withdrawn.

Claim 10 stands rejected as unpatentable over Ohnishi et al in view of the references set forth above and Muhlemann. Again, a review of Muhlemann reveals that this reference also does not disclose or teach a metal heater layer as claimed in independent claim 12. Accordingly, this rejection must fall along with the other rejection above. This rejection should be withdrawn.

Claim 20 stands rejected as unpatentable over Ohnishi et al in view of Muhlemann. Again, a review of Muhlemann reveals that this reference also does not disclose or teach a metal

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heater layer as claimed in independent claim 12. Accordingly, this rejection must fall along with the other rejection above. This rejection should be withdrawn.

Claims 2, 4-10, 12-14 and 16-20 are pending in the application. These claims are believed to be allowable.

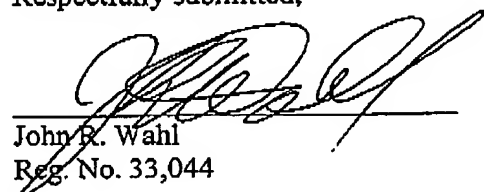
Double Patenting

As previously stated, upon an indication of allowable subject matter by the examiner, the conflict with copending application 10/769843 will be resolved. It is respectfully submitted that all of the Examiner's rejections have been successfully traversed and that the application is now in order for allowance. Accordingly, reconsideration of the application and a favorable indication of allowable subject matter is courteously solicited.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 73538.020500 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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